WP(C) 2496/2006
BEFORE
HON'BLE MR.JUSTICE KALYAN RAI SURANA

None appears for the petitioner when the matter is called up for hearing. I have heard Mr. W. Yhoshii, learned counsel appears on behalf of Mr. U.K. Nair, learned Standing Counsel, Director of Pension, for the respondent NO.3.

Record reveals that owing to non-appearance of the learned counsel for the petitioner on consecutive dates, this matter was dismissed for non-prosecution by the order dated 21.08.2013. After restoration of the writ petition, it was once again dismissed for default by order dated 11.05.2015. On restoration of the writ petition for the second time, today once again non-appeared for the petitioner, when the matter was called up for hearing.

On perusal of the affidavit-in-opposition filed by the respondent No.2 it is seen that the stands taken on behalf of the Directorate of Secondary Education, Assam, is that the petitioner had retired on completion at the age of 58 years is not true because the petitioner ought to have retired on 31.07.1993 but he continued up to 18.04.1994 and thus, he overstayed for a period of 4 month 18 days. The overstay of the petitioner was regularised by the way of re-employment in pursuance of the Government letter No.B(3)S227/93/PT/142 dated 14.07.1995. The respondent No.2 has admitted the fact that the petitioner was allowed to officiate as Principal with effect from 01.01.1992 to 31.07.1993 (Annexure-6 of the writ petition). The further stand of the respondent No.2 is that the writ petitioner was retained in service not as Principal but as an Assistant Headmaster who was acting as In-charge Principal of the School but subsequent to his retirement, he was allowed to officiate as the Principal of the School on the basis of pay scale of the principal for pensionery benefit. It is stated that although he overstayed in service with effect from 01.08.1993 to 18.04.1994, his service was regularised by the Government and is officiating appointment as Principal of Mandia H.S. School, Barpeta, was also regularised with effect from 01.01.1992 to 31.07.1993 for getting pensionery benefits.

It is made clear by the Secondary Education, the respondent No.2, in its affidavit-in-opposition that on 03.07.2002 (Annexure-9 of the writ petition) the pension was sanctioned to the petitioner by observing him to have retired from the post of Assistant Headmaster and therefore, there can be no justification to grant him any higher pension since he was never promoted as a regular Principal during his service tenure.

Be that as it may, since the petitioner is once again unrepresented when the matter is called up for hearing, hence, this writ petition stands dismissed for the 3rd time for non-prosecution.